
LEGAL BASE

The following federal and state laws are the legal base for Children's Protective Services (CPS) in Michigan:

Federal Law

Social Security Act, Title IV, Part A, Sec. 402(a)

Federal Indian Child Welfare Act, Public Law 95-608 25 USC Sub-section 1901-1952

**State Social
Welfare Laws**

1939 PA 280 (MCL 400.115b and 400.55(h))

**State Child
Protection Law
(CPL)**

1975 PA 238 (MCL 722.621 et seq.)

**State Child Care
Organization
Licensing Law**

1973 PA 116 (MCL 722.111 - 722.128)

Juvenile Code

1939 PA 288 (MCL 712A.1 et seq.)

Public Health Code

1978 PA 368 (MCL 333.17001 et seq.)

LEGAL DEFINITIONS**Amendment**

A change in case record or central registry information such as case name, address, code, case number, etc., including any change to correct inaccurate information.

**American Indian,
American Indian
Child, American
Indian Tribe
(formerly Native
American)**

See NAA 100 through NAA 615 for the definitions of American Indian, American Indian child, and American Indian tribe.

Basis-in-Fact

Direct, personal knowledge on the part of the reporting person that is specific and concrete and reasonably indicates harm or threatened harm to a child's health or welfare.

Central Registry

A repository of names of individuals who are identified as perpetrators related to a central registry case in the department's statewide electronic case management system.

**Central Registry
Case**

A central registry case means the department classified a case as confirmed serious abuse or neglect, confirmed sexual abuse, confirmed sexual exploitation, and/or confirmed methamphetamine production.

Child

An individual under 18 years of age.

Child Abuse

Harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment by a parent, a legal guardian, any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, a member of clergy, or an individual 18 years of age or older who is involved with a youth program.

**Child Care
Organization**

Defined in 1973 PA 116 (MCL 722.111 to 722.128) and includes child care centers, nursery schools, parent cooperative preschools,

foster family homes, foster family group homes, children's therapeutic group homes, child care homes, child caring institutions, child placing agencies, children's camps, and children's campsites.

**Child Care
Provider**

An owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child.

Child Neglect

Harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

- Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care, though financially able to do so, or by the failure to seek financial or other reasonable means to provide adequate food, clothing, shelter, or medical care.
- Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or any other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

Threatened Harm

An action, inaction or credible verbal threat by a person responsible.

**Children's
Protective
Services**

Program services designed to rectify conditions which threaten the health and safety of children due to the actions or inactions of those responsible for their care. These services include investigation of a child abuse/neglect referral; determination of the facts of danger to the child and immediate steps to remove the danger; providing or arranging for needed services for the family and child; and when appropriate, initiation of legal action to protect the child.

Confirmed Case

The department has determined, by a preponderance of evidence, that child abuse or child neglect occurred by a person responsible for the child's health, welfare, or care. A confirmed case is also referred to as a substantiated case.

**Confirmed Case of
Methamphetamine
Production**

A confirmed case that involved a child's exposure or contact with methamphetamine production.

**Confirmed Serious
Abuse or Neglect**

A confirmed case of mental injury or physical injury or neglect to a child that involves any of the following:

- Battering, torture, or other serious physical harm.
- Loss or serious impairment of an organ or limb.
- Life-threatening injury.
- Murder or attempted murder.
- Serious mental harm.

**Confirmed Sexual
Abuse**

A confirmed case that involves sexual penetration, sexual contact, attempted sexual penetration, or assault with intent to penetrate as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

**Confirmed Sexual
Exploitation**

A confirmed case that involves allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as that term is defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

**Criminal History
Check**

A fingerprint-based criminal history check through the department of state police and the Federal Bureau of Investigation.

**Criminal History
Record
Information**

Name; date of birth; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; social security number, driver's license number, and other identifying numbers; and information on misdemeanor arrests and convictions and felony arrests and convictions.

Domestic Violence

A pattern of coercive control perpetrated against one or more intimate partners. Behaviors can include sexual abuse, physical violence, threats, intimidation, financial control, possessiveness and isolation, among others. The abuse may continue after a couple has separated or is no longer living together and often directly involves, targets and impacts the children in the family.

Exploitation

Improper use of a child for one's own profit or advantage.

Expunge

To physically remove or eliminate and destroy a record or report.

False Complaint

A false allegation of child abuse or neglect made knowingly by an individual to the department. A person who knowingly makes a false report of child abuse or neglect may be charged with a misdemeanor if the false report was for an alleged misdemeanor offense. If the false report was for an alleged felony offense of child abuse and neglect, then the person may be charged with a felony.

**Five Category
Disposition**

The five dispositions for CPS investigations are:

Category V - A category V classification means the department determined there was no evidence of child abuse or child neglect and services are not needed.

Note: A category V case may also indicate there is insufficient evidence to confirm or deny allegations for a family that cannot be located.

Category IV - A category IV classification means the department determined there was not a preponderance of evidence of child abuse or child neglect, but services are recommended. The department must assist the child's family in locating and voluntarily participating in community-based services relevant to the needs of the family and risk to the child as identified in the risk assessment.

Category III - A category III classification means that the department determined there is a preponderance of evidence of child abuse or child neglect, and the risk assessment tool indicated low or moderate risk of future harm to the child. The department must assist the child's family in receiving community-based services relevant to the needs of the family and risk to the child. If the family does not voluntarily participate in services or fails to make progress to reduce the risk level, the department must consider reclassifying the case as category II.

Category II - A category II classification means the department determined there is a preponderance of evidence of child abuse or child neglect, and the risk assessment tool indicated high or intensive risk of future harm to the child. The department must open a protective services case and provide the services necessary to rectify the conditions that led to a preponderance of evidence.

Category I - A category I classification means the department determined there is a preponderance of evidence of child abuse or child neglect and one or more of the following is true:

- A court petition is required under the Child Protection Law (MCL 722.628d, 722.637, and 722.638).
- The child is not safe and a petition for removal is needed.
- CPS previously classified the case as category II, and the child's family did not voluntarily participate in services.
- There is a violation, involving the child, of a crime listed or described in section 8a(1)(b), (c), (d) or (f) or of child abuse in

the first or second degree as prescribed in section 136b of the Michigan Penal Code, 1931 PA 328, MCL 750.136b.

For more information on petition requirements, see PSM 715-03 Family Court: Petitions, Hearings and Court Orders.

In category I cases where the child remains in the home, protective services must open a case and provide services to the family. In category I cases where any child is removed and placed outside of the home, the case must be transferred to foster care for services and monitoring.

Extended Family Network

Includes the nuclear family with the non-custodial parent, extended or blended family, and other adults viewed as family who have an active role in the functioning of the child's family. These adults may or may not reside in the immediate area.

Human Trafficking

Sex trafficking victim

A sex trafficking victim is an individual subject to the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act or who is a victim of a severe form of trafficking in persons in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act is under 18 years old.

Labor trafficking victim

Labor trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Intimate Partner

Includes: spouse or former spouse; current or former living-together partner; individuals who have ever been involved in a dating relationship; have a child in common; or any nonparent adult defined as a person responsible for the health and welfare of the child.

**Local Office CPS
File**

The system used to keep a record of written report, document, or photograph files with and maintained by a county or a regionally based office of the department.

**Members of the
Clergy**

A priest, minister, rabbi, Christian Science practitioner, spiritual leader, or other religious practitioner, or similar functionary of a church, temple, spiritual community, or recognized religious body, denomination, or organization.

**Medical
Practitioner**

A medical practitioner is one of the following:

- A physician or physician's assistant licensed or authorized to practice under part 170 or 175 of the public health code, MCL 333.17001 to 333.17088 and MCL 333.17501 to 333.17556.
- A nurse practitioner licensed or authorized to practice under section 172 of the public health code, MCL 333.17210.

**Mental Health
Practitioner**

A psychiatrist, psychologist, or psychiatric social worker including a licensed master's social worker, licensed bachelor's social worker, or registered social work technician (under 1978 PA 368, as amended) who has successfully completed a psychiatric social service practicum.

**Non-offending
Caretaker**

In domestic violence cases, the "non-offending caretaker/adult survivor" is defined as the "adult victim" living in the home who has NOT been found to be abusive to the children. In all other CA/N cases, the "non-offending caretaker" is any other adult residing in the home who has not been found to be abusive or neglectful.

**Perpetrator
Notification**

A notification to individuals whose name has been entered on central registry for a criminal conviction, confirmed case of serious abuse or neglect, confirmed sexual exploitation, confirmed sexual abuse, or confirmed methamphetamine production. This also includes notice to individuals identified as a perpetrator in a confirmed case who are not placed on central registry. All perpetrator notices inform individuals of their rights to review the record and request amendment or expungement.

**Person
Responsible For
The Child's Health
Or Welfare**

A parent, legal guardian, person 18 years of age or older who resides for any length of time in the same home in which the child resides, or, except when used in section 7(2)(e) or 8(8), nonparent adult, or an owner, operator, volunteer, or employee of one or more of the following (MCL 722.622(x)):

- A licensed or registered childcare organization
- A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.
- A court-operated facility as approved under section 14 of the social welfare act, 1939 PA 280, MCL 400.14.

Non-parent Adult

A person who is 18 years of age or older and who, regardless of person's domicile, meets all the following criteria in relation to the child (MCL 722.622(v)):

- Has substantial and regular contact with the child.
- Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.
- Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

Note: Third degree relatives include parents, grandparents, great-grandparents, brothers, sisters, aunts, uncles, great-aunts, great-uncles, nieces, and nephews.

Note: A nonparent adult who resides in any home where a child is receiving respite care.

Note: This includes nonparent adults residing with a child when the referral involves sexual exploitation (human trafficking).

Power of Attorney

A written, signed document authorizing another person to act as one's agent for specific purposes for a limited period of time. (As an example, a parent leaves a child in the care of a neighbor while the parent is on vacation and leaves a written statement that, during that vacation period, the neighbor may consent to any needed surgery or medical treatment for the child.) Court action is not necessary for a power of attorney and a power of attorney is not equivalent to an order of guardianship.

Preponderance Of Evidence

Evidence which is of greater weight or more convincing than evidence which is offered in opposition to it.

Referral

Written or verbal communication to the department of an allegation of child abuse or neglect. The term "referral" in the Children's Protective Services manual (PSM) is interchangeable with the term "report" in the Child Protection Law.

Relative

As defined in MCL 712A.13a(j), relative means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the above, even after the marriage has ended by death or divorce. A stepparent, ex-stepparent, or the parent who shares custody of a half-sibling shall be considered a relative for the purpose of placement. Notification to the stepparent, ex-stepparent, or the parent who shares custody of a half-sibling is required as described

in section 4a of the foster care and adoption services act, 1994 PA 203, MCL 722.954a. A child may be placed with the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child. A placement with the parent of a putative father under this subdivision is not to be construed as a finding of paternity or to confer legal standing on the putative father.

**Relative/Unrelated
Caregiver Care
(Formerly Kinship
Care)**

The full-time nurturing and protection of children when they must be separated from the nuclear family and be cared for by a non-custodial parent, relatives, grandparents, stepparents or other unrelated adults who have a bond with a child. Relative/unrelated caregiver care arrangements may be made between and among family members or, alternatively, may involve child welfare agencies.

Relative/unrelated caregiver care is unique because of the nature of this type of care, the capacity to provide family continuity, the role of relative/unrelated caregiver care as part of a child welfare service, and relationships between relative/unrelated caregiver care, family preservation, out-of-home placements, and permanency.

Non-court Ward Relative/Unrelated Caregiver Placement occurs when the family decides the children can safely live with a non-custodial parent, relative, or unrelated caregiver. In this arrangement, a social worker may be involved in helping family members plan for the child, but a child welfare agency does not assume legal custody of, or responsibility for, the child.

Court Ward Relative/Unrelated Caregiver Placement involves placing children in relative/unrelated caregiver care as a result of a determination by the court and CPS that a child must be separated from their parent(s) because of abuse, neglect, drug dependency, abandonment, imprisonment, or special medical circumstances. The court places the child in the legal custody of the child welfare agency or authorizes legal guardianship with relatives or unrelated caregivers, and the relative/unrelated caregiver placement provides the full-time care, protection, and nurturing that the child needs.

Relevant Evidence

Evidence having a tendency to make the existence of a fact that is at issue more probable than it would be without the evidence.

Respite

Respite care is a licensed alternative placement providing planned relief to primary caregivers from the demands of ongoing care for an individual whose health and welfare would be jeopardized if left unattended. Respite care does not include incidental visits with an alternate caregiver such as sleep overs or incidental visits with a grandparent or other relatives, family, and friends.

**Severe Physical
Injury/Serious
Physical Harm**

Severe physical injury means serious physical harm to a child, as defined in MCL 750.136b. Serious physical harm means any physical injury that seriously impairs the child's health or physical well-being, including but not limited to, brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

**Serious Mental
Harm**

As defined in MCL 750.136b, injury to a child's mental condition or welfare that is not necessarily permanent but results in visibly demonstrated manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

**Specified
Information**

Information in a CPS case record related specifically to the department's actions in responding to a referral of CA/N regulated by the CPL.

Unconfirmed Case

A case that is not substantiated.

**Unrelated
Caregiver
(Formerly Fictive
Kin)**

Adults who are not related to a child by blood, marriage, or adoption who have a psychological/emotional bond with the child and are identified as “family” as a result of their active role in the functioning of the nuclear family.

Youth Program

Events or activities designed for participation by minors and supervised by program employees or volunteers outside the presence of a parent or guardian.